

Tapp, Joshua

From: Tapp, Joshua
Sent: Monday, May 19, 2014 2:57 PM
To: Moore, Kyra; Wendy Vit; Catharine [DNR] Fitzsimmons; Jim McGraw; Shelley Schneider; Brian Kozisek (brian.kozisek@nebraska.gov); 'Rick Brunetti'; 'Tom Gross'
Cc: Rebecca Weber; John Smith; Michael Jay; Amy Algoe-Eakin; Amy Bhesania; Lachala Kemp; Gregory Crable; Larry Gonzalez; Scott Mathias
Subject: SO2 Litigation Update
Attachments: ENV_DEFENSE-_682272-v1-SO2_Designations_-_Notice_of_Lodging_Consent_Decr....pdf

Greetings Air Directors:

Below you will find a summary of the latest status of our SO₂ designations litigation. (The attachment contains additional detail.) I would like to thank each of you for your contribution to the on-going discussions we've had over the past couple of years to develop an effective implementation strategy for SO₂ and your continued interest and efforts in implementation of the 2010 SO₂ standard. We recognize that the attached proposed settlement may change the schedule for SO₂ designations that you had anticipated. Regrettably, that is sometimes unavoidable with litigation settlements. The Agency looks forward to continuing to work with each of you to ensure protection of public health and the environment through sound, practicable policy approaches that reflect the considerations of our stakeholders.

Summary of Status of SO₂ Designations Litigation

This email provides an update on the status of litigation involving implementation of the 1-hour National Ambient Air Quality Standard (NAAQS) for sulfur dioxide (SO₂) established in June 2010. As required by the Clean Air Act, the EPA set this 1-hour health-based standard to improve public health protection, especially for people with asthma, children, and the elderly.

The EPA has reached a proposed settlement with plaintiffs Sierra Club and NRDC that would resolve pending litigation over the deadline for EPA to complete initial area designations for the 1-hour SO₂ standard. On May 19, 2014, the plaintiffs and the EPA filed with the Court a proposed consent decree. The proposed consent decree is attached.

Before this proposed consent decree can be entered by the Court (and result in a binding schedule for the EPA to complete designations), the Agency must publish notice of the proposed settlement in the Federal Register and provide a public comment period of at least 30 days. If, after reviewing the comments, the Administrator then decides to ask the Court to enter the decree, the Court will then determine whether to enter it as a final order.

Under the proposed settlement, for the majority of the areas with SO₂ emissions, the EPA would follow the schedule discussed in the proposed SO₂ Data Requirements Rule, which was published in the Federal Register on May 13, 2014. Under that proposed rule, air agencies would have the choice to use either improved monitoring or modeling around priority SO₂ sources in most areas, and then submit the additional data resulting from that work to the EPA by certain dates. The EPA and air agencies would use these data to complete all remaining area designations by December 31, 2017 (for all areas, except those with improved monitoring) and by December 31, 2020 (for those areas with improved monitoring).

In addition, under the proposed settlement, the EPA would be obligated to conduct an earlier round of designations, to be completed no later than 16 months from the Court's entry of the consent decree, for areas that have newly monitored violations of the 1-hour SO₂ standard or that have coal-fired power plants that in 2012 emitted either more than 16,000 tons of SO₂, or emitted more than 2,600 tons of SO₂ and had an emission rate of at least 0.45 lbs SO₂/MMBTU. However, if these sources have announced plans for retirement, then their areas would not be required to be included in this earlier round of designations.

Because this proposed settlement is not agreed to by the intervenor state plaintiffs in this case and also must be the subject of public comment, it is not certain that it will be entered by the Court and fully resolve the litigation. Following the resolution of the litigation, whether by means of settlement or by Court ruling, the EPA will notify you of our plans for designating the remaining areas of the country as ordered by the Court.

If you would like further information about how this proposed settlement may affect your state, please contact Scott Mathias (mathias.scott@epa.gov, 919-541-5310) in the EPA's Office of Air Quality Planning and Standards.

Thanks.

Josh

*Joshua Tapp, Chief
Air Planning and Development Branch
Environmental Protection Agency Region 7
11201 Renner Boulevard
Lenexa, KS 66219
913-551-7606 Office
tapp.joshua@epa.gov*

Tapp, Joshua

From: Knodel, Jon
Sent: Wednesday, May 21, 2014 8:08 AM
To: Smith, Mark A.; Tapp, Joshua; Jay, Michael; Gonzalez, Larry
Subject: NRDC and Sierra Club 1-hour SO2 Settlement

In an announcement sent out by MDNR yesterday, they included the following excerpt describing a proposed settlement agreement between EPA and NRDC and Sierra Club.

EPA's Proposed Settlement with Sierra Club and NRDC

The EPA has reached a proposed settlement with plaintiffs Sierra Club and NRDC that would resolve pending litigation over the deadline for EPA to complete initial area designations for the 1-hour SO₂ standard. On May 19, 2014, the plaintiffs and the EPA filed with the Court a proposed consent decree. The proposed consent decree is attached. Before this proposed consent decree can be entered by the Court (and result in a binding schedule for the EPA to complete designations), EPA must publish notice of the proposed settlement in the Federal Register and provide a public comment period of at least 30 days. Because this proposed settlement is not agreed to by the intervener state plaintiffs in this case and also must be the subject of public comment, it is not certain that it will be entered by the Court and fully resolve the litigation.

Under the proposed settlement, for the majority of the areas with SO₂ emissions, the EPA would follow the schedule discussed in the proposed SO₂ Data Requirements Rule, which was published in the Federal Register on May 13, 2014. In addition, under the proposed settlement, the EPA would be obligated to conduct an earlier round of designations, to be completed no later than 16 months from the Court's entry of the consent decree, for areas that have newly monitored violations of the 1-hour SO₂ standard or that have coal-fired power plants that in 2012 emitted either more than 16,000 tons of SO₂, or emitted more than 2,600 tons of SO₂ and had an emission rate of at least 0.45 lbs SO₂/MMBTU.

The draft consent agreement indicates these numerical thresholds apply to a "stationary source", which I interpret to be a coal-fired utility plant. Using the criteria above, these are the plants most likely affected by any final agreement in Region 7.

Plants in Region 7 that exceed 16,000 tpy SO2 in 2012

| State | Utility | Plant | UnitID | Heat Input | SO2 Mass | Weighted SO2 Rate |
|-------|-------------|------------------|--------|-------------|----------|-------------------|
| IA | MidAmerican | George Neal | | 88,985,040 | 24,061 | 0.541 |
| KS | KCPL | La Cygne | | 91,295,758 | 16,235 | 0.356 |
| MO | AmerenUE | Labadie | | 147,924,296 | 42,234 | 0.571 |
| MO | AmerenUE | Rush Island | | 72,773,194 | 20,422 | 0.561 |
| NE | NPPD | Gerald Gentleman | | 89,473,663 | 26,437 | 0.591 |
| NE | OPPD | Nebraska City | | 94,594,399 | 16,765 | 0.354 |

Plants in Region 7 that exceed 2,600 tpy SO2 and a rate of 0.45 lb SO2/mmBtu in 2012

| State | Utility | Plant | UnitID | Heat Input | SO2 Mass | Weighted SO2 Rate |
|-------|---------|------------|--------|------------|----------|-------------------|
| IA | Alliant | Burlington | | 13,973,963 | 4,697 | 0.672 |

| | | | | | |
|----|-----------------|------------------|-------------|--------|-------|
| IA | Alliant | Lansing | 13,251,043 | 4,477 | 0.676 |
| IA | Alliant | Ottumwa | 35,967,485 | 11,985 | 0.666 |
| IA | Alliant | Prairie Creek | 8,946,919 | 2,615 | 0.585 |
| IA | MidAmerican | George Neal | 88,985,040 | 24,061 | 0.541 |
| KS | BPU-KCK | Nearman Creek | 13,310,799 | 4,136 | 0.621 |
| KS | BPU-KCK | Quindaro | 10,418,202 | 2,757 | 0.529 |
| KS | Westar | Tecumseh | 13,605,210 | 3,978 | 0.585 |
| MO | AmerenUE | Labadie | 147,924,296 | 42,234 | 0.571 |
| MO | AmerenUE | Rush Island | 72,773,194 | 20,422 | 0.561 |
| MO | Empire District | Asbury | 13,798,472 | 6,261 | 0.907 |
| MO | KCPL | Montrose | 20,753,790 | 6,445 | 0.621 |
| MO | KCPL | Sibley | 22,180,478 | 6,095 | 0.550 |
| MO | Sikeston | Sikeston | 16,924,234 | 5,243 | 0.620 |
| NE | NPPD | Gerald Gentleman | 89,473,663 | 26,437 | 0.591 |
| NE | NPPD | Sheldon | 12,058,768 | 2,760 | 0.458 |
| NE | OPPD | North Omaha | 35,111,948 | 11,378 | 0.648 |

If you have any questions, please let me know.

Jon

NOT FOR DISTRIBUTION

Downloaded 5-20-2014

***Does not include facilities located in already designated nonattainment areas

| Region | State | Facility Name | ORIS Facility ID | Year of Emissions | SO2 Emissions (tons) | Heat Input (MMBtu) | SO2 Emissions Rate (lb/MMBtu) | Retirement | Facility Latitude | Facility Longitude |
|--------|-------|----------------------------|------------------|-------------------|----------------------|--------------------|-------------------------------|------------|-------------------|--------------------|
| 6 | OK | Grand River Dam Authority | 165 | 2012 | 14,946 | 62,975,703 | 0.475 | Y | 36.1906 | -95.2889 |
| 6 | OK | Hugo | 6772 | 2012 | 8,066 | 26,732,185 | 0.603 | N | 34.0158 | -95.3206 |
| 6 | OK | Muskogee | 2952 | 2012 | 22,647 | 91,287,177 | 0.496 | N | 35.7617 | -95.2847 |
| 6 | OK | Sooner | 6095 | 2012 | 15,029 | 60,243,356 | 0.499 | N | 36.4537 | -97.0527 |
| 6 | TX | Big Brown | 3497 | 2012 | 60,681 | 76,148,636 | 1.594 | N | 31.8206 | -96.0561 |
| 6 | TX | Coleta Creek | 6178 | 2012 | 16,218 | 52,727,119 | 0.615 | N | 28.7128 | -97.2142 |
| 6 | TX | Harrington Station | 6193 | 2012 | 15,383 | 66,431,667 | 0.463 | N | 35.2972 | -101.7475 |
| 6 | TX | J T Deely | 6181 | 2012 | 9,013 | 37,419,877 | 0.482 | Y | 29.3072 | -98.3228 |
| 6 | TX | Limestone | 298 | 2012 | 20,671 | 115,179,888 | 0.359 | N | 31.4219 | -96.2525 |
| 6 | TX | Martin Lake | 6146 | 2012 | 43,093 | 156,594,496 | 0.550 | N | 32.2597 | -94.5703 |
| 6 | TX | Monticello | 6147 | 2012 | 31,447 | 80,180,554 | 0.784 | N | 33.0917 | -95.0417 |
| 6 | TX | Optim Energy Twin Oaks | 7030 | 2012 | 4,038 | 15,862,739 | 0.509 | N | 31.0932 | -96.6965 |
| 6 | TX | San Miguel | 6183 | 2012 | 10,950 | 34,744,207 | 0.630 | N | 28.7044 | -98.4781 |
| 6 | TX | Sandow | 6648 | 2012 | 22,511 | 45,026,584 | 1.000 | N | 30.5642 | -97.0639 |
| 6 | TX | Sandy Creek Energy Station | 56611 | 2012 | 4,955 | 8,715,731 | 1.137 | N | 31.4641 | -96.9575 |
| 6 | TX | Tolk Station | 6194 | 2012 | 19,168 | 73,863,774 | 0.519 | N | 34.1847 | -102.5686 |
| 6 | TX | W A Parish | 3470 | 2012 | 37,861 | 153,675,107 | 0.493 | N | 29.4828 | -95.6311 |
| 6 | TX | Welsh Power Plant | 6139 | 2012 | 23,212 | 108,589,743 | 0.428 | Y | 33.0583 | -94.8440 |
| 7 | IA | Burlington (IA) | 1104 | 2012 | 4,697 | 13,973,963 | 0.672 | N | 40.7412 | -91.1168 |
| 7 | IA | George Neal South | 7343 | 2012 | 14,273 | 44,759,322 | 0.638 | N | 42.3022 | -96.3622 |
| 7 | IA | Lansing | 1047 | 2012 | 4,477 | 13,251,043 | 0.676 | Y | 43.3359 | -91.1672 |
| 7 | IA | Ottumwa | 6254 | 2012 | 11,985 | 35,967,485 | 0.666 | N | 41.0961 | -92.5556 |
| 7 | IA | Prairie Creek | 1073 | 2012 | 2,615 | 8,946,919 | 0.585 | Y | 41.9439 | -91.6386 |
| 7 | KS | La Cygne | 1241 | 2012 | 16,235 | 91,295,759 | 0.356 | N | 38.3472 | -94.6389 |
| 7 | KS | Nearman Creek | 6064 | 2012 | 4,612 | 14,502,453 | 0.636 | N | 39.1714 | -94.6958 |
| 7 | KS | Quindaro | 1295 | 2012 | 2,758 | 10,418,202 | 0.529 | Y | 39.1486 | -94.6405 |
| 7 | KS | Tecumseh Energy Center | 1252 | 2012 | 3,979 | 13,605,210 | 0.585 | N | 39.0522 | -95.5669 |
| 7 | MO | Asbury | 2076 | 2012 | 6,261 | 13,798,472 | 0.908 | Y | 37.3596 | -94.5913 |
| 7 | MO | Labadie | 2103 | 2012 | 42,235 | 147,924,297 | 0.571 | N | 38.5583 | -90.8361 |
| 7 | MO | Montrose | 2080 | 2012 | 6,445 | 20,753,791 | 0.621 | N | 38.3108 | -93.9331 |
| 7 | MO | Sibley | 2094 | 2012 | 6,095 | 22,180,478 | 0.550 | N | 39.1778 | -94.1861 |
| 7 | MO | Sikeston | 6768 | 2012 | 5,243 | 16,924,234 | 0.620 | N | 36.8791 | -89.6209 |
| 7 | NE | Gerald Gentleman Station | 6077 | 2012 | 26,438 | 89,473,664 | 0.591 | N | 41.0808 | -101.1408 |
| 7 | NE | Nebraska City Station | 6096 | 2012 | 16,766 | 94,594,399 | 0.354 | N | 40.6215 | -95.7765 |
| 7 | NE | North Omaha Station | 2291 | 2012 | 11,377 | 35,111,947 | 0.648 | N | 41.3297 | -95.9458 |
| 7 | NE | Sheldon | 2277 | 2012 | 2,760 | 12,058,768 | 0.458 | N | 40.5589 | -96.7842 |
| 8 | CO | Martin Drake | 492 | 2012 | 4,792 | 16,962,600 | 0.565 | N | 38.8244 | -104.8331 |
| 8 | CO | Pawnee | 6248 | 2012 | 13,510 | 35,469,550 | 0.762 | N | 40.2217 | -103.6803 |
| 8 | ND | Coal Creek | 6030 | 2012 | 16,273 | 96,628,220 | 0.337 | N | 47.3761 | -101.1567 |
| 8 | ND | Coyote | 8222 | 2012 | 10,639 | 27,008,173 | 0.788 | N | 47.2217 | -101.8139 |

NOT FOR DISTRIBUTION

Downloaded 5-20-2014

***Does not include facilities located in already designated nonattainment areas

| Region | State | Facility Name | ORIS Facility ID | Year of Emissions | SO2 Emissions (tons) | Heat Input (MMBtu) | SO2 Emissions Rate (lb/MMBtu) | Retirement | Facility Latitude | Facility Longitude |
|--------|-------|---------------|------------------|-------------------|----------------------|--------------------|-------------------------------|------------|-------------------|--------------------|
| 8 | ND | Leland Olds | 2817 | 2012 | 38,323 | 37,194,044 | 2.061 | N | 47.2819 | -101.3194 |
| 8 | SD | Big Stone | 6098 | 2012 | 12,290 | 30,221,558 | 0.813 | N | 45.3047 | -96.5103 |
| 8 | UT | Carbon | 3644 | 2012 | 8,307 | 14,946,131 | 1.112 | Y | 39.7272 | -110.8644 |
| 10 | OR | Boardman | 6106 | 2012 | 11,463 | 26,175,067 | 0.876 | Y | 45.6933 | -119.8056 |